

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION**

JOSEPH A. WASKO,	)	
	)	
Petitioner,	)	
	)	
v.	)	CAUSE NO. 1:06-CV-94 TS
	)	
ALLEN SUPERIOR COURT,	)	
	)	
Respondent.	)	

**OPINION AND ORDER**

Petitioner Joseph Wasko Spencer filed a petition for writ of habeas corpus under 28 U.S.C. § 2254 on March 27, 2006. Mr. Wasko's petition establishes that he was convicted on March 17, 2006, and that he has not sought review of his conviction by a higher state court. Pursuant to 28 U.S.C. § 2254(b)(1), an application for writ of habeas corpus shall not be granted unless it appears that the applicant has exhausted the remedies available to him in the courts of the state in which the conviction occurred. Mr. Wasko admits that he has not yet attempted to exhaust the Indiana state court remedies available to him to challenge his conviction.

Mr. Wasko's petition for writ of habeas corpus must be denied on its face based on Rule 4 of the Rules Governing Section 2254 Cases in the United States District Court that allows for the dismissal of a petition when it plainly appears from the face of the petition that the petitioner is not entitled to relief. *See Dellenbach v. Hanks*, 76 F.3d 820 (7th Cir. 1996). Accordingly, the court **DISMISSES** this petition without prejudice for failure to exhaust state court remedies.

SO ORDERED on May 15, 2006.

S/ Theresa L. Springmann  
THERESA L. SPRINGMANN  
UNITED STATES DISTRICT COURT